

**16. RETIREE HEALTHCARE**

- 16.1** The City and Association agree that they must address a number of issues regarding the retiree healthcare benefit. For this reason, the retiree healthcare benefit is subject to the reopener in Subsection 4.1.3 of this Agreement, and the parties intend to continue negotiating and working together to address these issues. This provision reflects the current status of the retiree healthcare benefit pending an interim and/or permanent resolution of the issues.
- 16.2** Employees are eligible to receive the retiree healthcare benefit in accordance with the San Jose Municipal Code.
- 16.3** On April 21, 2009, the City unilaterally implemented into the Compensation Plans for Executive Management and Professional Employees (Unit 99) a plan to transition to full pre-funding of the retiree healthcare benefit. At the time, all of the member classifications currently in ALP were unrepresented and in Unit 99. ALP was formed as a bargaining unit after the City's imposition of the full pre-funding plan, and neither ALP nor any of its members ever negotiated, bargained for, or agreed to the City's full pre-funding plan. The full pre-funding plan that the City unilaterally implemented is set forth in Resolution No. 74882, entitled "A Resolution of the Council of the City of San Jose Approving Agreements Between the City of San Jose and Several Bargaining Units Regarding Retiree Healthcare Funding and Implementing Retiree Healthcare Funding for Units 99 and 82."
- 16.4** Neither the City nor the Association waives any rights or assertions related to the retiree healthcare benefit through any of the provisions of this Agreement. This Agreement shall not be considered a waiver by the Association or the employees represented by the Association of any rights or assertions regarding the retiree healthcare benefit, including but not limited to any rights or assertions related to any of the following:
- Any vested rights related to the retiree healthcare benefit,
  - The meaning of any San Jose Municipal Code provisions or provisions of other documents related to the scope and/or implementation of the retiree healthcare benefit,
  - The retiree healthcare benefit funding plan implemented by the City, or
  - The member contribution rates established by the Retirement Board and the deductions made by the City from employee payroll checks for the retiree healthcare benefit.

Likewise, the City does not waive any rights or assertions it may have, including but not limited to those under the Meyers-Millias-Brown Act ("MMBA") regarding matters within the scope of representation. Nothing in this section is intended to expand either party's rights.

- 16.5** The parties acknowledge the Association never requested, bargained for, or otherwise agreed to, the "Kaiser 1500" healthcare plan referred to in Section 15 of this Agreement.